

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2**

**STARBUCKS CORPORATION d/b/a
STARBUCKS COFFEE COMPANY,**

and

**Case No. 02-CA-037548
(on remand from 679
F.3d 70 (2d Cir., May
2012))**

**LOCAL 660, INDUSTRIAL WORKERS
OF THE WORLD**

**CONSENT MOTION FOR EXTENSION OF TIME
TO FILE STATEMENT OF POSITION**

Pursuant to Section 102.46(a) of the National Labor Relations Board's Rules and Regulations, Counsel for the General Counsel respectfully requests a fourteen (14) day extension of time to file a statement of position in this matter until January 28, 2013. In support of this request, Counsel for the General Counsel states the following:

1. On May 10, 2012, the U.S. Court of Appeals for the Second Circuit issued a decision in the above-referenced matter. The Court remanded to the Board the allegation related to the discharge of Joseph Agins so that the Board could determine what standard applied when considering whether an employee's outburst which contained the use of obscenities in the presence of customers loses

otherwise available protections if the employee is off duty although on the employer's premises.

2. On October 31, 2012, the Board sent a letter notifying Counsel for General Counsel that the Board had decided to accept the partial remand from the Court of Appeals and that counsels had until November 14, 2012, to file a statement of position with respect to the issues raised by the remand.

3. On November 8, 2012, Stacey R. Eisentein, Counsel for Respondent, made a motion for a sixty (60) day extension to file the statement of position until January 14, 2013. Counsel for the General Counsel consented to the motion. The Board granted the motion.

4. The basis for this request stems from need for more time by Counsel for the General Counsel to formulate its position on the complex legal question raised by the remand. Due to other pressing work obligations and Counsel for the General Counsel being out of the office for ten (10) days over the last several weeks, Counsel for the General Counsel has not had an adequate opportunity to formulate its statement of position.


5. Counsel for the General Counsel has conferred with Stacey R. Eisentein, Counsel for Respondent, and Stuart Lichten, Counsel for the Charging Party, about this motion, and they have consented to the 14-day extension.

WHEREFORE, Counsel for the General Counsel respectfully requests that the deadline to file the parties' statement of position with respect to the issues

raised by remand from the Court of Appeals in this matter be extended until January 28, 2013.

Respectfully submitted this 3rd day of January 2012.

Respectfully,

A handwritten signature in cursive script, appearing to read "Audrey Eveillard", written over a horizontal line.

Audrey Eveillard
Counsel for the General Counsel
National Labor Relations Board,
Region 2
26 Federal Plaza, Room 3614
New York, New York 10278-0104

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 02**

**STARBUCKS CORPORATION DBA STARBUCKS
COFFEE COMPANY**

and

**LOCAL 660 INDUSTRIAL WORKERS
OF THE WORLD**

**Case 02-CA-037548
(on remand from 679
F.3d 70 (2d Cir., May 2012))**

**AFFIDAVIT OF SERVICE OF: Consent Motion for Extension of time to File Statement
of Position**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on, I served the above-entitled document(s) by **regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

DANIEL L. NASH, ESQ.
STACEY R. EISENSTEIN, ESQ.
AKIN GUMP STRAUSS HAUSER
& FELD LLP
1333 NEW HAMPSHIRE AVE, NW
WASHINGTON, DC 20036-1564

REGULAR MAIL

STUART LICHTEN, ESQ.
COUNSEL FOR THE CHARGING PARTY
SCHWARTZ, LICHTEN & BRIGHT
275 7TH AVENUE; FL 17
NEW YORK, NY 10001

REGULAR MAIL

January 3, 2013

Date

Lisa Coleman, Designated Agent of NLRB

Name



Signature